

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRANK YEARBY,

Plaintiff,

v.

Civil Case No. 15-14443
Honorable Linda V. Parker

ARAMARK FACILITIES,

Defendant.

OPINION AND ORDER DISMISSING LAWSUIT WITHOUT PREJUDICE

Plaintiff initiated this lawsuit against Defendant on December 23, 2015. As there was no indication in the record that Plaintiff had served Defendant with a Summons or a copy of his Complaint by the deadline set forth in the Federal Rules of Civil Procedure, this Court issued an order on May 23, 2016, requiring Plaintiff to show cause in writing by June 6, 2016, as to why this case should not be dismissed for failure to prosecute. (ECF No. 7.) The Court specifically instructed Plaintiff that “[his] failure to respond to this Order or to establish good cause for failing to effectuate service will result in this Court dismissing this action against [Defendant] pursuant to Rule 4(m) [of the Federal Rules of Civil Procedure].” (*Id.*)

Plaintiff failed to respond to the Court’s show cause order by June 6, 2016. On June 10, 2016, he submitted a letter to the Court in which he states why he

believes Defendant engaged in unlawful “[d]iscrimination, [u]nfair work practice, and [d]efamation of [c]haracter.” (ECF No. 8.) In his submission, Plaintiff does not suggest that he has served Defendant with a Summons or a copy of his Complaint, nor does he set forth any explanation for his failure to serve Defendant.

As such, Plaintiff has failed to satisfy this Court’s show cause order and the Court is **DISMISSING** this action **WITHOUT PREJUDICE** pursuant to Federal Rule of Civil Procedure 4(m). As this Court set forth in its earlier order, Rule 4(m) requires the Court to dismiss an action without prejudice if the plaintiff fails to serve the defendant within 90 days after the complaint is filed. *See* Fed. R. Civ. P. 4(m). If Plaintiff requests a Summons from the Clerk of the Court, serves Defendant, *and* files a proof of service within thirty (30) days of this Order, the Court will reinstate the lawsuit.

SO ORDERED.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: June 23, 2016

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, June 23, 2016, by electronic and/or U.S. First Class mail.

s/ Shawna Burns on behalf of Richard Loury
Case Manager